IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2354 OF 2006

IN

CRIMINAL APPEAL NO. OF 2006

SMT. KASTURI SHIVSHANKAR SHRIGIRI ..APPLICANT

V/S

RAMESH U. DOSHI & ANR. ..RESPONDENTS

MR. SACHIN S. PUNDE FOR APPLICANT.

MR. ASHISH S. GAIKWAD FOR RESPONDENT NO. 1.

MRS. M.M. DESHMUKH - APP FOR STATE.

CORAM: V.M. KANADE, J.

DATE : 12TH OCTOBER, 2007.

P.C.

1. Heard learned counsels appearing on behalf of the Applicant and the Respondents. By this Application the Applicant is seeking leave to file Appeal challenging the Judgment and Order passed by the Trial Court whereby the trial court was pleased to acquit the Respondent No. 1 for the offence punishable under section 138 of the Negotiable Instruments Act. On the complaint being filed by the Applicant the trial court has observed that the presumption raised under section 139 of the

Negotiable Instruments Act has been rebutted by the Respondent.

2. The case of the Applicant/Complainant in nut shell is that the Applicant had given a hand loan of Rs. 1,45,000/- to the Respondent. It is further alleged that Rs. 70,000/- was paid by the Respondent by issuing cheques for various amounts. However thereafter the cheques were revalidated and after the cheques were deposited by the complainant these cheques were dishonoured. The trial court has held that the complainant has not proved the payment of Rs. 1,45,000/-. Further the Respondent/Accused had rebutted the presumption which was raised under section 139 of the Negotiable Instruments Act.

3. I have perused the Judgment and Order and also notes of evidence. In my view the complainant has not established that she has paid an amount of Rs. 1,45,000/- to the Respondent. The Respondent on the other hand has rebutted the presumption that the cheques which were dishonoured were given to the complainant towards the existing liability. No case has been made out for grant of leave. Leave is accordingly refused.

(V.M. KANADE, J)